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5 DONNA HINES, No. C-07-4145 CW (EMC)  
6 Plaintiff,  
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8 v.  
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10 CALIFORNIA PUBLIC UTILITIES  
11 COMMISSION, *et al.*,  
12 Defendants.

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**ORDER RE DISCOVERY DISPUTE RE  
PURA IV AND V POSITIONS**

**(Docket No. 333)**

Currently pending before the Court is a discovery dispute in which Plaintiff Donna Hines seeks information from Defendant the CPUC about two positions for which she was not hired -- a PURA IV position and a PURA V position.<sup>1</sup> Having considered the parties' positions and accompanying submissions, the Court hereby **GRANTS** in part and **DENIES** in part Ms. Hines's request for discovery.

The request for discovery is denied with respect to the PURA IV position. In her deposition, Ms. Hines admitted that she never applied for the position in the first place. *See* Docket No. 337 (Hines Depo. at 401). The Court acknowledges Ms. Hines's claim in her deposition that she was denied the opportunity to apply for the position because it was her understanding that, to apply for the position, she needed an updated performance evaluation and, when she tried to set up a meeting with her direct supervisor to get her performance evaluation finalized, he declined to meet with her. *See id.* (Hines Depo. at 392-93). The problem for Ms. Hines is that no one ever told her that she

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<sup>1</sup> Ms. Hines appears to ask for information which the Court allowed for other positions for which she applied and was not hired. *See* Docket No. 229 (order, filed on 12/23/2009).

1 needed an updated performance evaluation to apply. In fact, her understanding that she needed an  
2 updated performance evaluation was based solely on a transcript in a different case (in state court)  
3 involving the CPUC. *See id.* (Hines Depo. at 401-02). Because there is an insufficient showing that  
4 Ms. Hines actually needed an updated performance evaluation to apply for the PURA IV position,  
5 the fact that her direct supervisor denied her a meeting to finalize her performance evaluation is  
6 irrelevant.

7 While the Court denies the request for discovery with respect to the PURA IV position, it  
8 grants the request for discovery with respect to the PURA V position. Contrary to what the CPUC  
9 argues, it is not clear that Ms. Hines was not qualified for the PURA V position. The Court does not  
10 have before it any information as to who was eligible for the PURA V position (as opposed to the  
11 PURA IV position). *See* Docket No. 337 (Pl.'s Supp., Att. A). The Jimenez e-mail, which suggests  
12 that only "list eligible" persons are qualified, is not an official posting and therefore is given little  
13 weight. *See id.* (Pl.'s Supp. Att. B).

14 For the foregoing reasons, Ms. Hines's request for discovery is granted in part and denied in  
15 part. The documents shall be produced within a week of the date of this order.

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17 IT IS SO ORDERED.

18 Dated: May 3, 2010

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21 EDWARD M. CHEN  
22 United States Magistrate Judge  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DONNA HINES,  
Plaintiff,

No. C-07-4145 CW (EMC)

v.

CALIFORNIA PUBLIC UTILITIES  
COMMISSION, *et al.*,  
Defendants.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

Donna Hines  
268 Bush Street, #3204  
San Francisco, CA 94104  
415-205-3377

Dated: May 3, 2010

RICHARD W. WIEKING, CLERK

By:

  
Betty Lee  
Deputy Clerk